No. 99-451

Supreme Court, U.S.
FILED
OCT 2 8 1999
OFFICE OF THE CLERK

IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1999

GAIL LEWIS, WARDEN, et al., Petitioners

v.

JESUS GARCIA DELGADO, Respondent

On Petition for Writ of Certiorari to the
United States Court of Appeals for the Ninth Circuit

SUPPLEMENTAL AFFIDAVIT OF COUNSEL RE: MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS

I, Michael B. Dashjian, declare as follows:

1. I am counsel of record for respondent Jesus Garcia Delgado in this Court. I am a member of the Bar of this Court.

2. This affidavit is filed in further support of respondent's motion for leave to proceed *in forma pauperis,* filed with this Court on October 18, 1999.

3. Respondent's motion for *in forma pauperis* status was originally made in accordance with this Court's Rule 39.1, which does not require an affidavit or declaration from the party if counsel was appointed for the party by a United States Court of Appeals

under the Criminal Justice Act. (As stated in my previous affidavit, the Court of Appeals did appoint counsel for respondent below under the CJA.) However, out of prudence and caution, and to provide this Court with relevant information, I sought to obtain an affidavit from respondent nonetheless. I had hoped to file that affidavit simultaneously with the *forma pauperis* motion, but was delayed because of the need to get the translation, and also because respondent was transferred to a different custodial facility and it took some time for me to find that out.

4. Since I now have respondent's affidavit, I wish to submit it in further support of his *in forma pauperis* motion. This affidavit and those attached are respectfully submitted for consideration along with the papers originally filed in support of the motion.

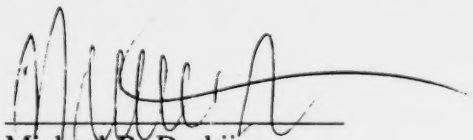
5. I was informed when I was originally appointed to be counsel for respondent, in his state court appeal, that respondent would require a Spanish-language translator. A Spanish-language interpreter had been appointed for respondent in the Superior Court proceedings. My communications with respondent for both the state and federal court proceedings have been entirely through a Spanish-language translator.

6. As a result, I arranged for translation into Spanish of an affidavit in further support of a motion for *in forma pauperis* status. The attached documents are the original English-language version of the affidavit (Exh. A); a Spanish-language translation of the affidavit with respondent's answers (Exh. B); and an affidavit of the translator, Carlos Gaudy (Exh. C). I have utilized Mr. Gaudy's Spanish translation services on a regular basis over the past two years or so.

7. Mr. Gaudy verified to me that respondent's answer to question 1(b) on the Spanish-translated affidavit translates to "1993 - 200=000, pesos per week in Mexico." Mr. Gaudy informed me that the notation "200=000, pesos" has no monetary significance in Spanish, and that 200 pesos might be properly abbreviated "200,00 pesos." Mr. Gaudy stated that he assumes respondent's answer refers to 200 pesos per week in 1993.

8. Mr. Gaudy also verified that respondent's answer to question 5 on the Spanish-translated affidavit translates to "My wife Efigenia and my mother Carmen."

I declare under penalty of perjury of the laws of the United States that the foregoing is true and accurate to the best of my personal knowledge. Executed on this 27th day of October, 1999.



Michael B. Dashjian
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Facsimile: (805) 460-0349

Counsel of Record for Respondent

Exhibit A

Original English-Language Version Of The Affidavit

No. 99-451

IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1999

GAIL LEWIS, WARDEN, Petitioner

v.

JESUS GARCIA DELGADO, Respondent

AFFIDAVIT IN SUPPORT OF MOTION
FOR LEAVE TO PROCEED IN FORMA PAUPERIS

I, Jesus Garcia Delgado, being first duly sworn, depose and say that I am the respondent in the above-entitled case; that in support of my motion to proceed without being required to prepay fees or costs, or give security therefor, I state that because of my poverty I am unable to pay the costs of said proceedings or to give security therefor, and that I believe I am entitled to redress.

I further swear that the responses which I have made to the questions and instructions below relating to my ability to pay the cost of proceeding in this Court are true:

1. Are you presently employed? Yes _____ No _____

   a. If the answer is yes, state the amount of your salary or wages per month and give the name and address of your employer.

_____

_____

b. If the answer is no, state the date of your last employment and the amount of the salary and wages per month which you received.

_____

2. Have you received within the past twelve months any income from a business, profession or other form of self-employment, or in the form of rent payments, interest, dividends, or other source?

_____

_____

3. Do you own any cash or checking or savings account [include any funds in prison accounts]? Yes _____ No____

a. If the answer is yes, state the total value of the items owned.

_____

4. Do you own any real estate, stocks, bonds, notes, automobiles, or other valuable property (excluding ordinary household furnishings and clothing)? Yes_____ No _____

a. If the answer is yes, describe the property and state its approximate value.

_____

_____

5. List the persons who are dependent upon you for support and state your relationship to those persons.

_____

I declare under penalty of perjury of the laws of the United States that the foregoing is true and correct. Executed this

_____ day of _____, 1999.
[day] [month]

_____
Jesus Garcia Delgado

Exhibit B

Spanish-Language Translation Of The Affidavit, With Respondent's Answers

No. 99-451

IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1999

GAIL LEWIS, WARDEN, Petitioner

v.

JESUS GARCIA DELGADO, Respondent

DECLARACIÓN JURADA EN APOYO DE LA MOCIÓN
DE AUTORIZACIÓN PARA PROCEDER EN FORMA PAUPERIS

Yo, Jesús Garcia Delgado, habiendo sido primero debidamente juramentado, depongo y digo que soy el apelado en el caso más arriba titulado, que en apoyo de mi moción para proceder sin el requerimiento de pagar por adelantado cuotas o costos, o dar garantía para eso, declaro que debido a mi pobreza soy incapaz de pagar los costos de tales procedimientos o dar la garantía para eso, y que yo creo que tengo derecho a reparación.

Además juro que mis contestaciones a las preguntas e instrucciones debajo, relacionadas con mi habilidad para pagar el costo de proceder en esta corte, son verdad;

1. ¿Está usted actualmente empleado? Si ____ No X

   a. Si la respuesta es si, declare la cantidad de su salario o paga por mes y dé el nombre y dirección de su patrón.

b. Si la respuesta es no, declare la fecha de su último empleo y la cantidad de su salario y paga por mes que usted recibió.
1993- 200=000, pesos por semana. en México.

2. ¿Ha recibido usted, dentro de los últimos doce meses, algún ingreso de un negocio, profesión u otra forma de empleo propio, o en forma de pagos de renta, interés, dividendos, u otra fuente?
NO

3. ¿Tiene usted algún dinero en efectivo o cuenta bancaria o de ahorro (incluya cualquier fondo en las cuentas de la prisión)? Si ___ No X

a. Si la respuesta es si, declare el valor total de los artículos poseídos.

4. ¿Posee usted bienes raíces, acciones, bonos, pagarés, automóviles, u otra propiedad valiosa (excluyendo los muebles comunes de la casa y ropa)?
Si ___ No X

a. Si la respuesta es si, describa la propiedad y declare su valor aproximado.

5. Liste a las personas que dependen de usted para su sostén y mencione su relación con esas personas.
Mi, Esposa Efigenia. i mi mama carmen,

Declaro bajo penalidad de perjurio de las leyes de los Estados Unidos que lo previo es verdad y correcto. Esto fue efectuado el día 21 de Octubre de 1999,
(día) (mes)

Jesus Garcia Delgado

Exhibit C

Affidavit Of Translator

No. 99-451

IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1999

GAIL LEWIS, WARDEN, Petitioner

v.

JESUS GARCIA DELGADO, Respondent

AFFIDAVIT OF TRANSLATOR

I, Carlos Gaudy, being first duly sworn, depose and say that I received the attached document entitled "Affidavit in Support of Motion for Leave to Proceed In Forma Pauperis" from Michael E. Dashjian, Attorney at Law; that I translated it from English to Spanish to the best of my ability; and that the document in the above case entitled "DECLARACIÓN JURADA EN APOYO DE LA MOCIÓN DE AUTORIZACIÓN PARA PROCEDER EN FORMA PAUPERIS" is to the best of my ability a true and accurate translation of the "Affidavit in Support of Motion for Leave to Proceed In Forma Pauperis." I further depose and say that my occupation is as a Spanish language interpreter and translator, and that I am certified by the Judicial council of the State of California to work as an interpreter in the California courts.

I declare under penalty of perjury of the laws of the United States that the above is true and correct. Executed this 4th day of October, 1999.

[signed] Carlos Gaudy

Judicial Council ID# 21983179

No. 99-451

IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1999

GAIL LEWIS, WARDEN, Petitioner

v.

JESUS GARCIA DELGADO, Respondent

DECLARACIÓN JURADA EN APOYO DE LA MOCIÓN
DE AUTORIZACIÓN PARA PROCEDER EN FORMA PAUPERIS

Yo, Jesús Garcia Delgado, habiendo sido primero debidamente juramentado, depongo y digo que soy el apelado en el caso más arriba titulado, que en apoyo de mi moción para proceder sin el requerimiento de pagar por adelantado cuotas o costos, o dar garantía para eso, declaro que debido a mi pobreza soy incapaz de pagar los costos de tales procedimientos o dar la garantía para eso, y que yo creo que tengo derecho a reparación.

Además juro que mis contestaciones a las preguntas e instrucciones debajo, relacionadas con mi habilidad para pagar el costo de proceder en esta corte, son verdad;

1.- ¿Está usted actualmente empleado? Sí ____ No ____

a. Si la respuesta es sí, declare la cantidad de su salario o paga por mes y dé el nombre y dirección de su patrón.

_____

_____

b. Si la respuesta es no, declare la fecha de su último empleo y la cantidad de su salario y paga por mes que usted recibió.

_____

2. ¿Ha recibido usted, dentro de los últimos doce meses, algún ingreso de un negocio, profesión u otra forma de empleo propio, o en forma de pagos de renta, interés, dividendos, u otra fuente?

_____

_____

3. ¿Tiene usted algún dinero en efectivo o cuenta bancaria o de ahorro (incluya cualquier fondo en las cuentas de la prisión)? Sí ___ No ___

a. Si la respuesta es sí, declare el valor total de los artículos poseídos.

_____

4. ¿Posee usted bienes raíces, acciones, bonos, pagarés, automóviles, u otra propiedad valiosa (excluyendo los muebles comunes de la casa y ropa)?
Sí ____ No ____

a. Si la respuesta es sí, describa la propiedad y declare su valor aproximado.

_____

_____

5. Liste a las personas que dependen de usted para su sostén y mencione su relación con esas personas.

_____

Declaro bajo penalidad de perjurio de las leyes de los Estados Unidos que lo previo es verdad y correcto. Esto fue efectuado el día _____ de _____ de 1999,

(día) (mes)

_____
Jesus Garcia Delgado